



**FEDERAL ELECTION COMMISSION**  
**WASHINGTON, D.C. 20463**

**DEC 21 2007**

**Brian L. Wolff, Treasurer**  
**Democratic Congressional Campaign Committee**  
**430 South Capitol Street, SE**  
**2<sup>nd</sup> Floor**  
**Washington, DC 20003**

**RE: MUR 5835**

**Dear Mr. Wolff:**

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting that the Democratic Congressional Campaign Committee ("the Committee") and you, in your official capacity as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On December 17, 2007, the Commission found reason to believe that the Committee and you, in your official capacity as treasurer, violated 2 U.S.C. § 441d, a provision of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

**We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.**

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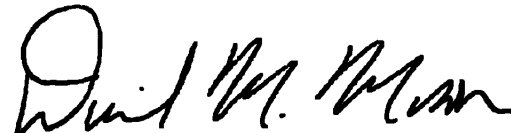
Brian L. Wolff  
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If you are interested in engaging in pre-probable cause conciliation, please contact Kate Belinski, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. See 2 U.S.C. § 437g(a), 11 C.F.R. Part 111 (Subpart A). Similarly, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

We look forward to your response.

Sincerely,



David M. Mason  
Vice Chairman

Enclosures  
Factual and Legal Analysis  
Procedures  
Designation of Counsel Form

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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6 **RESPONDENT:** Democratic Congressional Campaign  
7 Committee and Brian Wolff, in his  
8 official capacity as treasurer

MUR 5835

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11 **I. INTRODUCTION**

12 This matter was generated by the Federal Election Commission ("Commission") pursuant  
13 to information ascertained in the normal course of carrying out its supervisory responsibilities.

14 The activity at issue consists of alleged telephone "push polls" conducted by Quest Global  
15 Research Group, Inc. ("Quest") of voters in Iowa's 3rd Congressional District in August and  
16 October, 2004. The polls were apparently directed against Stan Thompson, a candidate in the  
17 3rd District Congressional race, but the pollsters did not identify the entity that paid for the polls  
18 and did not state whether any candidate authorized the polls. The Commission previously found  
19 reason to believe that an unknown respondent, also known as the unidentified client of Quest  
20 Global Research, Inc., violated the Act.

21 **II. FACTUAL AND LEGAL ANALYSIS**

22 Information in the Commission's possession indicates that there were actually three polls,  
23 one in August 2004 and two in October 2004 and that the Democratic Congressional Campaign  
24 Committee ("DCCC") paid for the polls. The DCCC paid a total of \$30,000 to a vendor,  
25 Anzalone Liszt Research, Inc., for the three polls and reported the disbursements as coordinated  
26 party expenditures for Leonard Boswell.<sup>1</sup>

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<sup>1</sup> Leonard Boswell was Stan Thompson's opponent in Iowa's 3rd District Congressional race.

1                   1.     The August Poll

2             Anzalone subcontracted the August poll to Quest. Quest billed Anzalone and Anzalone  
3 then billed the DCCC for 500 completed poll calls of voters in Iowa's 3rd District between  
4 August 22 and 25, 2004. For this poll, the DCCC paid \$10,000. The script for the August poll  
5 included basic demographic questions (regarding gender, age, income, etc.), questions about the  
6 likelihood that the voter would vote for a Democratic or a Republican candidate, and the voter's  
7 impression of candidates George W. Bush, John Kerry, Leonard Boswell, and Stan Thompson.  
8 The pollsters then read a series of statements about Stan Thompson, and asked the voter whether  
9 the statements made them much less likely, somewhat less likely, or made no difference in the  
10 way they would vote.<sup>2</sup> The poll did not contain a disclaimer disclosing who paid for the call, and  
11 did not state whether it was authorized by a candidate.

12                   2.     The First October Poll

13             Anzalone subcontracted the first October poll to another vendor, Communications Center  
14 Inc. ("CCI"). Anzalone billed the DCCC for 500 calls between October 12 and 14, 2004.  
15 Information in the Commission's possession indicates that CCI completed and initially billed  
16 Anzalone for 550 calls, but revised its invoice such that Anzalone was ultimately billed for 525

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<sup>2</sup> For example, statements from the August poll included:

"Stan Thompson makes his living defending big insurance companies in court against people who have been severely injured in accidents or medical mistakes. Thompson says he wants to represent the average person in Congress, but he has a track record [sic] protecting insurance company profits over consumers."

"Stan Thompson is anti-choice and opposes a woman's right to have an abortion."

"Stan Thompson has said he opposes regulating the tobacco industry and has taken thousands of dollars in campaign contributions from tobacco companies like Philip Morris and RJR."

"Stan Thompson works for companies that outsource American jobs overseas."

"Stan Thompson supported a two trillion dollar tax cut for wealthy Americans and big corporations at the expense of middle class working families. Nearly 90% of Iowan families got less than \$100 in tax cuts while the very wealthy got a \$78,000 tax cut."

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calls. It appears that Anzalone billed the DCCC \$10,000 for 500 calls. CCI asked questions similar to the questions in the August poll regarding demographics, the likelihood the voter would vote for a Democratic or Republican party candidate, the voter's impression of the Presidential and Congressional candidates, and the voter's reaction to statements about Stan Thompson.<sup>3</sup> The poll did not contain a disclaimer disclosing who paid for the call, and did not state whether it was authorized by a candidate.

3. The Second October Poll

The second October poll was conducted by Quest. It comprised at least 600 telephone calls and took place between October 21 and 25, 2004. Quest billed Anzalone for 600 calls, but Quest's chart of telephone call results indicates that it completed 800 calls in connection with the poll. Like the preceding polls, this poll sought general demographic information, the likelihood the voter would choose a major party candidate, and impressions of the Presidential and Congressional candidates. This time, the poll sought voter reaction to only one statement:

Stan Thompson opposes additional spending in Afghanistan [sic] that will help in the hunt and capture of Osama Bin Laden and the fight against terrorism.

Anzalone billed the DCCC \$10,000 for the second October poll. The poll did not contain a disclaimer disclosing who paid for the call, and did not state whether it was authorized by a candidate.

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<sup>3</sup> For example, statements from the first October poll included:

"Stan Thompson supported the Republican Prescription Drug Program that was called a "big win" for the drug industry by the Wall Street Journal. The new program is too confusing, doesn't guarantee lower drug prices and blocked access to safe and affordable drugs from Canada."

"Stan Thompson supports free trade agreements that allow the use of child labor by third world countries, undercutting American jobs. Thompson was quoted saying the "child labor is no reason for impending [sic] trade promotion."

"Stan Thompson supports George Bush's economic policies that create tax incentives for American companies to ship their jobs overseas."

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1       The Act requires that political committees “making a disbursement for the purpose of  
2   financing any communication ... through any other type of general public political advertising”  
3   must place a disclaimer in the communication. 2 U.S.C. § 441d. Furthermore, the regulations  
4   state that any “public communication” for which a political committee makes a disbursement  
5   must contain a disclaimer. 11 C.F.R. § 110.11. A public communication includes a  
6   communication by telephone bank to the general public. 11 C.F.R. § 100.26. A telephone bank  
7   means that more than 500 calls of an identical or substantially similar nature were made within a  
8   30-day period. 11 C.F.R. § 100.28. The Explanation and Justification discussing the disclaimer  
9   regulations implementing the 2002 Bipartisan Campaign Reform Act (“BCRA”) amendments to  
10   the Act also make clear that a telephone bank is considered a type of general public political  
11   advertising. *See* 67 Fed. Reg. 76962, 76963 (Dec. 13, 2002) (“each form of communication  
12   specifically listed in the definition of ‘public communication,’ as well as each form of  
13   communication listed with reference to a ‘communication’ in 2 U.S.C. 441d(a), must be a form  
14   of ‘general public political advertising.’”). Therefore, any candidate, political committee or their  
15   agent(s) making any disbursement for telephone bank calls must include a disclaimer on the  
16   calls.

17       The disclaimer must be presented in a “clear and conspicuous manner” in order to give  
18   the listener “adequate notice of the identity of the person or political committee that paid for and,  
19   where required, that authorized the communication.” 11 C.F.R. § 110.11(c)(1). A disclaimer, if  
20   paid for and authorized by a candidate or an authorized committee of a candidate, must clearly  
21   state that the communication has been paid for by the authorized political committee. 11 C.F.R.  
22   § 110.11(b)(1).

23       The polls were paid for by the DCCC. Information and documents obtained to date  
24   indicate that the August poll comprised exactly 500 completed telephone calls. Because a

1 telephone bank is defined as "more than 500" calls, the August poll does not appear to constitute  
2 a public communication requiring a disclaimer. However, both of the October polls at issue here  
3 involved more than 500 substantially similar telephone calls. Both polls required disclaimers  
4 stating that they were paid for by the DCCC and authorized by Leonard Boswell. Therefore, the  
5 Commission is substituting the name of the Democratic Congressional Campaign Committee and  
6 Brian Wolff, in his official capacity as treasurer, in place of "unknown respondent, also known  
7 as the Unidentified Client of Quest Global Research, Inc." in the Commission's previous finding  
8 that there is reason to believe an unknown respondent violated 2 U.S.C. § 441d.

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